

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Review and revision of Rules 25-4.002, 4.003, 4.0185, 4.023, 4.038, 4.039, 4.066, 4.070, 4.072, 4.073, 4.0770, 4.080, and 4.085, | DOCKET NO. 991473-TP
| ORDER NO. PSC-04-1242-NOR-TP
| ISSUED: December 16, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF RULEMAKING

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to amend Rules 25-4.002, 4.003, 4.0185, 4.023, 4.038, 4.066, 4.070, 4.072, 4.073, 4.0770, 4.080 and 4.085, Florida Administrative Code, relating to service rules for telecommunication companies.

The attached Notice of Rulemaking will appear in the December 23, 2004 edition of the Florida Administrative Weekly.

If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Written requests for hearing and written comments or suggestions on the rules must be received by the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than January 13, 2005.

By ORDER of the Florida Public Service Commission this 16th day of December, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)
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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

NOTICE OF PROPOSED RULEMAKING
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 991473-TP

RULE TITLE:	RULE NO.:
Application and Scope	25-4.002
Definitions	25-4.003
Periodic Reports	25-4.0185
Report of Interruptions	25-4.023
Safety	25-4.038
Availability of Service	25-4.066
Customer Trouble Reports	25-4.070
Transmission Requirements	25-4.072
Answering Time	25-4.073
Customer Appointments	25-4.0770
Weighted Measurement of Quality of Service	25-4.080
Service Guarantee Program	25-4.085

PURPOSE AND EFFECT: The purpose of this rulemaking is to eliminate rules that are no longer necessary, clarify rules that are ambiguous, and to provide the option of a Service Guarantee Program from which consumers can directly benefit if the company misses a service standard.

SUMMARY: The proposed rule amendments pertain to standards of customer service imposed upon incumbent local exchange companies. The proposed rules apply only to residential telephone service.

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SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: For the majority of telecommunications companies affected, the transactional costs are small. For one company, the costs are large, but that company is not in compliance with the existing rules. If that company were in compliance, its transactional costs would also be small because the proposed rules are not stricter than the existing rules.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 364.14, F.S.

LAW IMPLEMENTED: 364.01, 364.02, 364.025, 364.03, 364.035, 364.036, 364.14, 364.15, 364.17, 364.171, 364.18, 364.19, 364.183, 364.185, 364.32, 364.335, 364.337, 364.3375, 364.3376, 364.386, 364.602, 364.603, 364.604, F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES IS MARLENE K. STERN, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THESE PROPOSED RULES IS:

25-4.002 Application and Scope.

(1) These rules are intended to define reasonable service standards ~~which~~ that will promote the furnishing of adequate and satisfactory local and long distance service to the public, and to establish the rights and responsibilities of both the utility and the customer. The rules contained in Parts I-XI of this chapter apply to local exchange companies. The rules contained in Part II and Part V apply only to residential service. The rules contained in Part X of Chapter 25-24, F.A.C., apply to any Interexchange Company. The rules in Part XI of Chapter 25-24, F.A.C., apply to any pay telephone service company. The rules in Part XII of Chapter 25-24, F.A.C., apply to all Shared Tenant Service Companies. The rules in Part XIII of Chapter 25-24, F.A.C., apply to all Operator Service Provider Companies and call aggregators . The rules contained in Part XIV of Chapter 25-24, F.A.C., apply to all Alternative Access Vendor Service Providers. The rules contained in Part XV apply to all competitive local exchange telecommunications companies.

(2) No change.

Specific Authority 350.127(2) FS.

Law Implemented 364.01, 364.335, 364.337, 364.3376 FS.

History—Revised 12-1-68, Formerly 25-4.02, Amended 2-23-87, 1-8-95, 2-1-99.

25-4.003 Definitions.

For the purpose of Chapter 25-4, F.A.C., the definitions of the following terms apply:

(1) “Access Line” or “Subscriber Line:” or “Subscriber Loop”. The circuit or channel between the demarcation point at the customer’s premises and the serving end or class 5 central office.

~~2) “Competitive Local Exchange Telecommunications Company (CLEC).” Any company certificated by the commission to provide local exchange telecommunications services in Florida on or after July 1, 1995.~~

~~(23) No change.~~

~~(34) “Billing Party.” Any _____ entity that bills an end user consumer on its own behalf or on behalf of an originating party.~~

~~(5) through (9) renumbered as (4) through (8) No change.~~

~~(910) “Company,” “Telecommunications Company,” “Telephone Company,” or “Utility.” These terms may be used interchangeably herein and shall mean “telecommunications company” as defined in Section 364.02 (1312), Florida Statutes.~~

~~(10) “Competitive Local Exchange Telecommunications Company (CLEC).” Any company certificated by the commission to provide local exchange telecommunications services in Florida on or after July 1, 1995.~~

~~(11) – (16) No change.~~

~~(17) “Extension Station.” An additional station connected on the same circuit as the main station and subsidiary thereto.~~

~~(18) through (20) renumbered as (17) through (19) No change.~~

~~(21) “Interexchange Company (IXC).” Any telecommunications company, as defined in Section 364.02(12), Florida Statutes, which provides telecommunications service between local calling areas as those areas are described in the approved tariffs of individual LECs. IXC includes, but is not limited to, MLDAs as defined in subsection (27) of these definitions.~~

~~(2022) No change.~~

~~(2123)~~ “Interstate Toll Message.” Those toll messages ~~which~~ that do not originate and terminate within the same state.

(24) through (25) renumbered as (22) through (23) No change.

~~(24)~~ “Intrastate Interexchange Company (IXC).” Any entity that provides intrastate interexchange telecommunications services.

~~(2526)~~ “Intrastate Intra-state Toll Message.” Those toll messages which originate and terminate within the same state.

(27) through (29) renumbered as (26) through (28) No change.

~~(2930)~~ “Local Exchange Telecommunications Company (LEC).” Any telecommunications company, certificated by the Commission prior to July 1, 1995, to provide local exchange telecommunications services as defined in Section 364.02(6), Florida Statutes.

(31) through (32) renumbered as (30) through (31) No change.

~~(3233)~~ “Local Toll Provider (LTP).” Any entity telecommunications company providing intraLATA or intramarket area long distance telecommunications service.

~~(3334)~~ “Main Station.” The principal telephone associated with each service to which a telephone number is assigned and which is connected to the central office equipment by a ~~an~~ individual or party line circuit or channel.

(35) through (36) renumbered as (34) through (35) No change.

~~(37)~~ “Multiple Location Discount Aggregator (MLDA).” An entity that offers discounted long distance telecommunications services from an underlying IXC to unaffiliated entities. An entity is a MLDA if one or more of the following criteria applies:

~~(a)~~ It collects fees related to interexchange telecommunications services directly from subscribers,

~~—— (b) It bills for interexchange telecommunications services in its own name,~~

~~—— (c) It is responsible for an end user's unpaid interexchange telecommunications bill, or~~

~~—— (d) A customer's bill cannot be determined by applying the tariff of the underlying IXC to the customer's individual usage.~~

(36) "New Construction." New construction is the installation of facilities to serve unserved areas; new construction is not the rearrangement or repair of defective facilities to serve an existing area. Adding to or the rearrangement of existing facilities is not considered "new construction" unless an engineer work order is issued.

(3738) "Normal Working Days." The normal working days for installation and construction shall be all days except Saturdays, Sundays, and holidays. The normal working days for repair service shall be all days except Sundays and holidays. Holidays shall be the days which are observed by each individual telephone company utility.

(3839) No change.

(3940) "Originating Party." Any person, firm, corporation, or other entity, including a telecommunications company or a billing clearinghouse, that provides any telecommunications service or information service to a customer or bills a customer through a billing party, except the term "originating party" does not include any entity specifically exempted from the definition of "telecommunications company" as provided in Section 364.02(13)(a) through (f), Florida Statutes(12), Florida Statutes.

(41) through (44) renumbered to (40) through (43) No change.

(4445) "Provider." Any ~~telecommunications company~~ entity providing telecommunication service, excluding pay telephone providers and call aggregators (i.e., local, local toll, and toll providers).

(4546) No change.

(4647) “Service Standard.” A level of service ~~which~~ that a telecommunications company, under normal conditions, is expected to meet in its certificated territory as representative of adequate services.

(48) through (50) renumbered as (47) through (49) No change.

(5051) “Subscriber Line.” Or “Subscriber Loop.” See “Access Line.”

(5152) No change.

(5253) “Toll Connecting Trunk.” A trunk ~~which~~ that connects a local central office with its toll operating office.

(5354) No change.

(5455) “Toll Provider (TP).” Any entity~~telecommunications company~~ providing interLATA long distance telecommunications service.

(56) through (59) renumbered as (55) through (58) No change.

Specific Authority 350.127(2) FS.

Law Implemented 364.01, 364.02, 364.32, 364.335, 364.337, 364.3375, 364.3376, 364.602, 364.603, 364.604 FS.

History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.03, Amended 2-23-87, 3-4-92, 12-21-93, 3-10-96, 12-28-98, 7-5-00.

25-4.0185 Periodic Reports.

Each local exchange telecommunications company shall file with the Commission’s Division of Competitive Services Markets and Enforcement the information required by Commission Form PSC/CMP 28 (/043/96), which is incorporated into this rule by reference. Form PSC/CMP 28,

entitled "Engineering Data Requirements," may be obtained from the Commission's Division of Competitive Markets and Enforcement.

(1) The information required by schedules 2, 3, 4, 8, 11, ~~13, 14, 15, and 16~~ and 20 of Form PSC/CMP 28 shall be reported on a quarterly basis by the large LECs and semiannually by the small LECs and shall be filed on or before the end of the month following the reporting period.

~~(2) The information required by Schedules 17 and 18 of Form PSC/CMP 28 shall be reported on a quarterly basis by the large LECs and shall be filed on or before the end of the month following the reporting period.~~

~~(2)~~⁽³⁾ No change.

Specific Authority 350.127(2) FS.

Law Implemented 364.01(4), 364.03, 364.17, 364.183(1) FS.

History—New 12-14-86, Amended 7-20-89, 12-27-94, 3-10-96.

25-4.023 Report of Interruptions.

(1) The Commission shall be informed of any major interruptions to service that affecting 1,000 or more subscribers for a period of 30 minutes or more ~~an entire community or a substantial portion of a community~~ as soon as it they comes to the attention of the utility. The Company shall provide the time, the location, the expected duration of the outage and when the interruption is restored.

(2) No change.

Specific Authority 350.127(2) FS.

Law Implemented 364.03, 364.17, 364.183 FS.

History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.23, Amended 10-1-96.

25-4.038 Safety.

Each utility shall at all times use reasonable efforts to properly warn and protect the public from danger, and shall exercise due care to reduce the hazards to which employees, customers, and the public may be subjected by reason of its equipment and facilities. All subscriber loops shall be properly installed to prevent harm to the public as referenced in Article 800.30 and 800.31 of the National Electric Code (NEC), incorporated herein by reference.

Specific Authority 350.127(2) FS.

Law Implemented 364.01(4), 364.03 FS.

History—New 12-1-86, Formerly 25-4.38.

25-4.066 Availability of Service.

(1) Each telecommunications company shall provide central office equipment and outside plant facilities designed and engineered in accordance with realistic anticipated customer demands for basic local telephone communications service within its certificated area in accordance with its filed tariffs or orders of the Commission, subject to its ability to secure and provide, for reasonable expense, suitable facilities and rights for construction and maintenance of such facilities.

(2) Where central office and outside plant facilities are readily available, at least 90 percent of all requests for primary service in any calendar month shall normally be satisfied in each exchange ~~or service center~~ of at least 50,000 lines and quarterly in exchanges of less than 50,000 lines within an interval of three working days after receipt of application when all tariff requirements relating thereto have been complied with, except those instances where a later installation date is requested by the applicant or where special equipment or services are involved.

(3) If the applicant requests an installation date beyond three working days, the requested date shall be counted as day three for measurement purposes.

(4) When an appointment is made in order for the company to gain access to the customer's premises, the mutually agreed upon date will be day three for measurement purposes. Failure of the customer to be present to afford the company representative entry to the premises during the appointment period shall exempt the order for measurement purposes. Whenever a company representative is unable to gain admittance to a customer's premises during the scheduled appointment period, the company representative shall leave a notice, stating the name of the company representative and the date and time the company representative was at the premises.

(3) through (4) renumbered as (5) through (6) No change.

~~(7)~~ Where facility additions are required to make service available, the applicant shall be further advised as to the circumstances and conditions under which service will be provided and as soon as practicable an estimated date when service will be furnished. With respect to applications aged over six months all service dates that result in a further delay due to the company's inability to meet the original estimated date of service shall be identified in the appropriate section of the report of held applications filed with the Commission ~~which~~ **and shall** include an explanation of the reasons therefor.

(8) Each company shall report pursuant to Rule 25-4.0185, Periodic Reports, the performance of the company with respect to the availability of service requirements as outlined in Form PSC/CMP 28 (/04), incorporated herein by reference and available from the Division of Competitive Markets and Enforcement. Each company shall explain the reasons for all service orders that are not completed within 30 calendar days.

Specific Authority 350.127(2), 364.14 FS.

Law Implemented 364.025, 364.03, 364.14, 364.15, 364.183, 364.185 FS.

History--Revised 12-1-68, Amended 3-31-76, Formerly 25-4.66, Amended 3-10-96.

25-4.070 Customer Trouble Reports.

(1) – (2) No change.

(3) Service Objectives:

(a) Service Interruption: Restoration of interrupted service shall be scheduled to insure at least 95 percent shall be cleared within 24 hours of report in each exchange that contains at least 50,000 lines as and will be measured on a monthly basis. For exchanges that contain less than 50,000 lines, the results can be aggregated on a quarterly basis. For any exchange failing to meet this objective, the company shall provide an explanation with its periodic report to the Commission.

(b) Service Affecting: Clearing of service affecting trouble reports shall be scheduled to insure at least 95 percent of such reports are cleared within 72 hours of the report in each exchange which contains at least 50,000 lines as and will be measured on a monthly basis. For exchanges which contain less than 50,000 lines, the results can be aggregated on a quarterly basis.

(c) If the customer requests that the service be restored on a particular day beyond the objectives outlined in (a) and (b) above, the trouble report shall be counted as having met the objective if the requested date is met.

(4) Priority shall be given to service interruptions which that affect public health and safety that are reported to and verified by the company and such service interruptions shall be corrected as promptly as possible on an emergency basis.

(5) – (6) No change.

(7) Reporting Criteria: Each company shall periodically report the data as-specified in Rule 25-4.0185, F.A.C., Periodic Reports, on Form PSC/CMP 28 (/04), incorporated herein by reference and available from the Division of Competitive Markets and Enforcement.

Specific Authority 350.127(2) FS.

Law Implemented 364.01(4), 364.03, 364.15, 364.17, 364.18, 364.183, 364.386 FS.

History–Revised 12-1-68, Amended 3-31-76, Formerly 25-4.70, Amended 6-24-90, 3-10-96.

25-4.072 Transmission Requirements.

(1) Telecommunications companies shall furnish and maintain the necessary plant, equipment, and facilities to provide modern, adequate, sufficient, and efficient transmission of communications between customers in their service areas. Transmission parameters shall conform to ANSI/IEEE Standard 820 Telephone Loop Performance Characteristics (Adopted 1984) incorporated herein by reference. ~~Transmission shall be at adequate volume levels and free of excessive distortion. Levels of noise and crosstalk shall be such as not to impair communications. The maximum loss objective of inter-toll trunks shall be consistent with the requirements of the nationwide switching plan and overall transmission losses within each trunk group will not vary more than plus or minus two db.~~

(2) – (3) No change.

Specific Authority 350.127(2) FS.

Law Implemented 364.01(4), 364.03, 364.15, 364.386 FS.

History–New 12-1-68, Amended 3-31-76, Formerly 25-4.72, Amended 3-10-96.

25-4.073 Answering Time.

(1) Each telephone utility shall provide equipment designed and engineered on the basis of realistic forecasts of growth, and shall make all reasonable efforts to provide adequate personnel so as to meet the following service criteria under normal operating conditions:

~~(a) If emergency services for the LEC's total serving area is currently answered by the 911 system, at least ninety (90%) percent of the calls offered to the LEC provided operator shall be answered within thirty (30) seconds after zero only is dialed.~~

~~(b) If emergency services for the LEC's total serving area is not currently answered by the 911 system, at least ninety (90%) percent of all the calls offered shall be answered within 20 seconds after zero only is dialed.~~

~~(ae) At least ninety (90%) percent of all calls directed to intercept, directory assistance and repair services and eighty (80%) percent of all calls to business offices shall be answered within thirty (30) seconds after the last digit is dialed when no menu driven system is utilized.~~

~~(bd) Notwithstanding paragraph (e) above, w~~When a company utilizes a menu driven, automated, interactive answering system (referred to as the system or as an Integrated Voice Response Unit (IVRU)), at least (95%) percent of the calls offered shall be answered within 15 seconds after the last digit is dialed. The initial recorded message presented by the system to the customer shall only identify the company and the general options available to the customer. include (The option of transferring to a live attendant within the first 30 seconds of the messages shall be included in the initial message.

~~(c) For subscribers who either selecting the option of transferring to a live assistant, or do not interact with the system for twenty seconds, except for business office calls, at least ninety-five (95%) percent or if calls the call shall be transferred by the system to a live attendant. At least 90 percent of the calls shall be answered by the live attendant prepared to give immediate~~

assistance within ~~fifty-five (55) seconds~~ of being transferred to the attendant after the last digit of the telephone number listed in the directory for the company's service(s) was dialed. ~~Eighty-five (85%) percent of all such calls directed to any business office shall be transferred by the system to a live attendant within fifty-five (55) seconds after the last digit is dialed. At any time during the call, the customer shall be transferred to live assistance if the customer fails to interact with the system for a time period of ten (10) seconds following any prompt. For the purposes of this section, interaction means responding to a customer prompt offered by the system by keying (pressing) a number or character of a Dual Tone Multiple Frequency (DTMF) keypad associated with a telephone.~~

~~(e) In accordance with Rule 25-4.0770, F.A.C., when a menu driven, automated, interactive, answering system is utilized, provisions shall be included to allow the customer to make an appointment or to negotiate with a live attendant, or with the system, any appointment or commitment offered to the customer by the system. The subscriber shall be able to renegotiate appointments using the system.~~

~~(f) Automated systems shall not contain promotional or merchandising material unless the customer selects and chooses to receive such information.~~

~~(dg) The terms "answered" as used in paragraphs (a) and (cb) above, shall be construed to mean more than an acknowledgment that the customer is waiting on the line. It shall mean that the operator, service representative, or automated system is ready to render assistance, and/or accept the information necessary to process the call. With respect to calls to business office services where the company practice provides that such calls are directed to an operator position, an additional twenty (20) seconds will be allowed to extend the call excluding the time required for the customer to provide sufficient information to the operator in order to process the call. In~~

~~those instances where the call cannot be extended within the allotted interval, the calling party is to be given the option of placing the call again or providing a number by which a company representative will return the call within ten (10) minutes or at a time mutually convenient to the parties.~~

~~(2) Answering time studies using actual data or any statistically valid substitute for actual data shall be made to the extent and frequency necessary to determine compliance with this rule. The company shall add ten (10) seconds to the answer time for each call. This ten (10) second constant will substitute for actual data on the time required for the call to connect to the company's facilities. Monthly summary results of such studies shall be filed with the Commission promptly after the end of each calendar quarter.~~

(3) All teleph~~one~~communications companies are expected to answer their main published telephone number on a ~~twenty-four (24)~~ hour a day basis. Such answering may be handled by a special operator at the toll center or directory assistance facility when the company offices are closed. Where after hours calls are not handled as described above, at least the first published business office number will be equipped with a telephone answering device which will notify callers after the normal working hours of the hours of operation for that business office. Where recording devices are used, the message shall include the telephone number assigned to handle urgent or emergency calls when the business office is closed.

(4) Each company shall report, pursuant to Rule 25-4.0185, Periodic Reports, the performance of the company with respect to answer time as outlined in Form PSC/CMP 28 (/04), incorporated herein by reference and available from the Division of Competitive Markets

and Enforcement.

Specific Authority 350.127(2) FS.

Law Implemented 364.01(4), 364.17, 364.03, 364.386, 365.171, F.S.

History: New 12/1/68, formerly 25-4.73, Amended 3/31/76, 11/24/92, _____

25-4.0770 Customer Appointments.

Specific Authority 350.127(2) FS.

Law Implemented 364.025, 364.03(1), 364.19 FS.

History--New 7-13-82, Formerly 25-4.770, Amended 3-10-96, Repealed _____

25-4.080 Weighted Measurement of Quality of Service.

Specific Authority 350.127(2) FS.

Law Implemented 364.01, 364.01(4), 364.03, 364.035, 364.036, 364.386 FS.

History--New 6-2-93, Repealed _____.

25-4.085 Service Guarantee Program

A company may petition the Commission for approval of a Service Guarantee Program, which would relieve the company from the rule requirement of each service standard addressed in the approved Service Guarantee Program. The Commission shall have the right to enforce the provisions of the Service Guarantee Plan.

Specific Authority 350.127(2), F.S.

Law Implemented 364.01, 364.01(4), 364.03, 364.035, 364.036, 364.386, F.S.

History-New

NAME OF PERSON ORIGINATING PROPOSED RULES: Richard Moses

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NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission.

DATE PROPOSED RULES APPROVED: December 7, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 30,
Number 10, March 5, 2004.